

REPLY EXHIBIT A

Cunard, Robert G.

October 26, 2007

Atlanta, GA

Page 1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

THE COMMONWEALTH OF MASSACHUSETTS,)
Plaintiff,) C.A. NO.
v.) 03-11865-PBS
MYLAN LABORATORIES, INC., BARR)
LABORATORIES, INC., DURAMED)
PHARMACEUTICALS, INC., IVAX CORPORATION,))
WARRICK PHARMACEUTICALS CORPORATION,)
WATSON PHARMACEUTICALS, INC., SCHEIN)
PHARMACEUTICAL, INC., TEVA)
PHARMACEUTICALS USA, INC., PAR)
PHARMACEUTICAL, INC.,)
PUREPAC PHARMACEUTICAL CO.,)
AND ROXANE LABORATORIES, INC.)
Defendants.)

VIDEOTAPED DEPOSITION OF

ROBERT G. CUNARD

October 26, 2007

9:21 a.m.

Cunard, Robert G.

October 26, 2007

Atlanta, GA

Page 150	Page 152
<p>1 profitability was not acceptable at the pharmacy</p> <p>2 level and it was requested that we lower our</p> <p>3 pricing as a result of that.</p> <p>4 MR. MULLIN: It's now approximately 12:30. I</p> <p>5 think this is probably an appropriate point to take</p> <p>6 a luncheon break.</p> <p>7 MR. ESCOBAR: Okay.</p> <p>8 THE VIDEOGRAPHER: 12:33. We're off the</p> <p>9 record. This is the end of Tape No. 3.</p> <p>10 (Whereupon, a recess was taken.)</p> <p>11 THE VIDEOGRAPHER: 1:35. Back on the record.</p> <p>12 This is the beginning of Tape No. 4.</p> <p>13 Q. (By Mr. Mullin) Mr. Cunard, I want to</p> <p>14 show you again what's been marked in these</p> <p>15 proceedings as Exhibit Cunard 003, which is the new</p> <p>16 product plan summary.</p> <p>17 And I'd ask you to just look at that and tell</p> <p>18 me whether or not you wrote that.</p> <p>19 A. No, I did not.</p> <p>20 Q. Did you play any role at all in drafting</p> <p>21 that?</p> <p>22 MR. ESCOBAR: Objection to the form.</p>	<p>1 Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. And with regard to Pfizer, there's a</p> <p>4 column that's headed "DP." What -- what's your</p> <p>5 understanding of DP?</p> <p>6 A. It's my understanding that that referred</p> <p>7 to direct price.</p> <p>8 Q. And that would be a -- a contract price on</p> <p>9 sales where the product was shipped directly to the</p> <p>10 customers?</p> <p>11 A. I don't know.</p> <p>12 Q. Is it a term that you used when you worked</p> <p>13 at Mylan?</p> <p>14 MR. ESCOBAR: The term "DP"?</p> <p>15 MR. MULLIN: I'm sorry?</p> <p>16 MR. ESCOBAR: The term "DP"?</p> <p>17 MR. MULLIN: Yes.</p> <p>18 THE WITNESS: Yes, we used direct price. But</p> <p>19 I believe this term "DP" is taken from the Red</p> <p>20 Book, which -- which may have a different</p> <p>21 definition than what internally we used.</p> <p>22 Q. (By Mr. Mullin) And with regard to the</p>
Page 151	Page 153
<p>1 THE WITNESS: Not that I recall.</p> <p>2 Q. (By Mr. Mullin) Do you think you probably</p> <p>3 did?</p> <p>4 MR. ESCOBAR: Objection to the form; calls for</p> <p>5 speculation.</p> <p>6 THE WITNESS: Not that I recall.</p> <p>7 Q. (By Mr. Mullin) And if you were looking</p> <p>8 for similar documents with regard to other products</p> <p>9 that were launched, where would you look?</p> <p>10 A. I would find the originator of this</p> <p>11 document and search that person's files.</p> <p>12 Q. And where would you look for the</p> <p>13 originator of the document?</p> <p>14 A. It's certainly not my expertise, but I'd</p> <p>15 just look for an electronic copy or -- or see what</p> <p>16 the author was on the document.</p> <p>17 Q. In showing you what was marked as Exhibit</p> <p>18 Cunard 004 this morning which, I think, is the Jodi</p> <p>19 Eichelberger e-mail that we were looking at,</p> <p>20 looking on the -- the grid, the spread there, the</p> <p>21 -- the table, on the right-hand side is the Pfizer</p> <p>22 information.</p>	<p>1 Pfizer side of that column or table, the diff- --</p> <p>2 if -- if DP means the contract price, essentially</p> <p>3 it would be the pharmacy's revenue on the product?</p> <p>4 MR. ESCOBAR: Objection to the form; calls for</p> <p>5 speculation.</p> <p>6 THE WITNESS: I don't know.</p> <p>7 Q. (By Mr. Mullin) And if you compare the</p> <p>8 two spread columns in that chart, essentially for</p> <p>9 each product that's listed, the spread on the</p> <p>10 Pfizer product is greater than the spread on the</p> <p>11 Mylan product; is that right?</p> <p>12 A. Yes, that's what the numbers reflect.</p> <p>13 (Whereupon, previously marked Exhibit</p> <p>14 Cunard 007 was introduced for identification.)</p> <p>15 Q. (By Mr. Mullin) All right. Let me show</p> <p>16 you a document that I've had marked as Exhibit</p> <p>17 Cunard 007.</p> <p>18 Again, I'd represent to you it's an e-mail</p> <p>19 produced us by the Attorney General's Office of the</p> <p>20 State of California who's represented to us that</p> <p>21 they got it from Mylan, that it was also produced</p> <p>22 to a Congressional committee, and that the</p>

39 (Pages 150 to 153)

REPLY EXHIBIT B

NO. D-1-GV-07-001259

THE STATE OF TEXAS)	IN THE DISTRICT COURT
)	
ex rel.)	
VEN-A-CARE OF THE)	
FLORIDA KEYS, INC.,)	
)	
Plaintiffs,)	
)	
VS.)	TRAVIS COUNTY, TEXAS
)	
SANDOZ, INC. f/k/a GENEVA)	
PHARMACEUTICALS, INC.,)	
NOVARTIS PHARMACEUTICAL)	
CORP., NOVARTIS AG, EON)	
LABS, APOTHECON, INC.,)	
)	
MYLAN PHARMACEUTICALS, INC.,)	
MYLAN LABORATORIES, INC.,)	
UDL LABORATORIES, INC.)	
)	
TEVA PHARMACEUTICALS USA,)	
INC., f/k/a LEMMON)	
PHARMACEUTICALS, INC.,)	
COPLEY PHARMACEUTICALS,)	
INC., IVAX PHARMACEUTICALS,)	
INC., SICOR PHARMACEUTICALS,)	
INC., TEVA NOVOPHARM, INC.,)	
and TEVA PHARMACEUTICAL)	
INDUSTRIES, LTD.)	
Defendants.)	201ST JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

ROBERT GEORGE CUNARD

OCTOBER 30TH, 2008

1 that I want to say was in the 2004-2005 timeline when
2 it was started.

3 Q. Who was the chairman?

4 A. I believe Hal Korman, but I --I'm not
5 completely sure on that.

6 Q. Did you ever serve in a leadership capacity
7 on the pricing committee?

8 A. Well, it was a rather limited committee. I
9 believe everyone there was a -- a leader, if you will.

10 Q. Okay. Did the pricing committee ever make
11 any decisions or recommendations regarding average
12 wholesale prices?

13 A. Not that I recall.

14 Q. How about wholesale acquisition costs?

15 A. Yes.

16 Q. How about direct prices?

17 A. Yes.

18 Q. How about prices that your group would, then,
19 give to Mr. Krinke for reporting to government
20 programs or First DataBank or Red Book?

21 A. Yes.

22 Q. So if there was ever any issues regarding the
23 correctness of how Mylan was going about setting and
24 reporting prices that were used by government
25 programs, would there have been a committee at Mylan

REPLY EXHIBIT C

00001

1 STATE OF WISCONSIN CIRCUIT COURT

2 DANE COUNTY Branch 9

3 -----

4 STATE OF WISCONSIN,)

5 Plaintiff,) CASE NO. 04-CV-1709

6 vs.)

7 AMGEN INC., et al.,)

8 Defendants.)

9 -----

10 (CAPTIONS CONTINUED ON FOLLOWING PAGES)

11 Videotape Deposition of Joseph Duda, R.Ph.

12 Wednesday, April 16, 2008

13 a witness herein, taken on behalf of the

14 plaintiffs in the above-entitled cause of action

15 pursuant to notice and the Wisconsin and Kentucky

16 Rules of Civil Procedure by and before Tammie

17 Puls, Registered Professional Reporter and

18 Notary Public within and for the State of

19 West Virginia at the offices of Streski Reporting

20 & Video Service, WesMon Center IV, 829 Fairmont

21 Road, Suite 101, Morgantown, West Virginia 26501,

22 commencing at 8:52 a.m.

00144

1 MR. ESCOBAR: Objection to the form.

2 A. I disagree.

3 BY MR. BARNHILL:

4 Q. You can produce direct prices -- you're
5 the keeper of both the direct price -- when you
6 were head of contracts and pricing, you were the
7 keeper of both the average wholesale price and
8 the direct price; is that correct?

9 MR. ESCOBAR: Objection to the form.

10 BY MR. BARNHILL:

11 Q. You knew both?

12 A. I knew the -- the -- repeat the
13 question.

14 Q. When you were head of contracts and
15 pricing, you knew both the average wholesale
16 price and the direct prices; is that correct?

17 A. I had a reference where I could look at
18 the two prices, yes.

19 Q. And when Mylan contracted with Rite
20 Aid, the direct price was always lower, always,
21 every time, lower than the published average
22 wholesale price of Mylan's product; is that

REPLY EXHIBIT D

0001

1 IN THE UNITED STATES DISTRICT COURT FOR THE

2 DISTRICT OF MASSACHUSETTS

3 CIVIL ACTION NO. 03-CV-11865-PBS

4 -----X

5 THE COMMONWEALTH OF)

6 MASSACHUSETTS,) VIDEOTAPED

7 Plaintiff,) DEPOSITION UPON

8 v.) ORAL EXAMINATION

9 MYLAN LABORATORIES, INC.,) OF

10 et al.,) BRIAN ROMAN

11 Defendants.) 30(b)(6)

12 -----X

13 C O N F I D E N T I A L

14 FOR ATTORNEYS' EYES ONLY

15 T R A N S C R I P T of the stenographic

16 notes of G. DONAVICH, a Certified Shorthand

17 Reporter and Notary Public of the State of

18 Pennsylvania taken at the offices of AKF

19 Reporters, Inc., Court Reporting & VideoTech

20 Services, AKF Building, 436 Boulevard of the

21 Allies, Pittsburgh, Pennsylvania, on Thursday,

22 August 2, 2007, commencing at 9:14 a.m.

0129

1 MR. ESCOBAR: Objection to the form.

2 THE WITNESS: Mylan does not sell its
3 products to its customers at AWP.

4 MR. MULLIN: And it never has. Is that
5 correct?

6 MR. ESCOBAR: Objection to the form.

7 THE WITNESS: It's hard for me to be
8 categorical. We've been in business for 45
9 years, and as I said, now we sell 170 different
10 drugs; but by and large, no, AWP is not a price
11 at which Mylan sells or has sold its drugs to its
12 customers.

13 MR. MULLIN: And certainly Mylan has
14 never understood that AWP represented a price
15 that Mylan was selling its product for. Correct?

16 MR. ESCOBAR: Objection to the form.

17 THE WITNESS: I don't think Mylan
18 understood that AWP was a price that Mylan was
19 selling its products to its customers or ever
20 represented it to be that.

21 MR. MULLIN: I want to focus on pricing
22 authority that set transaction prices with